

### **Remarks**

This Amendment is submitted with a Request for Continued Examination and addresses the issues raised in the Advisory Action and as informally discussed with the Examiner on October 14, 2003.

The Applicants note with appreciation the indication in the Advisory Action that the Applicants' prior Amendment filed September 8, 2003 has overcome the rejection of Claims 1 – 21, 23 – 42 and 44, based on the combination of Ristey with Nagai and the rejection of Claims 22 and 43 over the combination of Ristey, Isaka, Migliorini and Murschall with Nagai.

The sole rejection remaining in the case is, therefore, the rejection of Claims 1 – 44 over the combination of Nagai with Ristey. (This assumes entry of the Applicants' September 8, 2003 filed Amendment.) The Applicants have amended independent Claims 1, 3, 24 and 26 to recite that the polyolefin polymer layer is a non-shrinkable polyolefin polymer layer in accordance with the Examiner's helpful suggestion. The Applicants' laminate film is in fact a non-shrinkable film which contains a non-shrinkable polyolefin polymer. Of course, as noted by the Applicants in their last Amendment at page 10, filed on September 8, 2003, the non-shrinkability does not literally mean that there is zero shrinkage, but that there is a minimal amount of shrinkable that is widely known and acknowledged by those of ordinary skill in the art.

This is in sharp contrast to the heat-shrinkable film of Ristey, which exhibits greater than 15% shrinkage in the MD direction and, typically, a shrinkage of about 10% in the TD direction.

As a consequence, one of ordinary skill in the art would not make the hypothetical combination of Nagai with Ristey. However, in any event, even if the hypothetical combination were to be made, the resulting product would still be different from the Applicants' product. Ristey discloses

shrinkable films and, accordingly, a laminate resulting from a Ristey film would still be a shrinkable film. The Applicants' laminate films and the Applicants' polyolefin polymer layers are non-shrinkable layers. Therefore, even if the hypothetical combination of the disclosure of Nagai were made with the shrinkable films of Ristey, the resulting product would still be sharply different. The Applicants, therefore, respectfully submit that the 35 U.S.C. §103 rejection based on the combination of Nagai with Ristey must fail.

The Applicants also envision a different type of metallization than Ristey. In that regard, Ristey is almost completely devoid of teachings concerning metallization. The sole discussion is located at Column 36 in the paragraph beginning at about line 40. However, there is no specific disclosure as to how that metallization is achieved. However, in an earlier discussion in the same Example, namely Example I-6, there is some discussion as to how laminations occur. This may be found in Column 34 of Ristey in the paragraph beginning at about line 35, the paragraph beginning at about line 45 and the paragraph beginning about line 49. Those teachings recite various types of laminations, such as wet bonding, dry bonding, hot melt or wax laminating, extrusion lamination and thermal or heat laminating. Some explanation is given as to certain of those types of bonding, such as dry bonding involving adhesive and thermal laminating, bringing together coated substrates under heat and pressure, wherein the webs are heated to the softening point of the coating.

That text does not mention metallizing. However, one of ordinary skill in the art would understand that such metallization in Ristey could be achieved by heating the polymer layer up to its softening point, which is a very low temperature such as about 170°F, as indicated at Column 35, around line 60 and applying a thin sheet/layer of metal to the softened polymer layer.

This is, however, sharply different than the elevated temperatures employed by the Applicants which utilize vapor deposition. Thus, the Applicants claim a “vapor deposited layer” which involves temperatures far in excess of those imagined by Ristey. As is well known in the art, vapor deposition involves temperatures sufficiently high to cause the metal to essentially vaporize and have liquid vapor particles attached to the target layer. Such temperatures are, by definition, high enough to cause the metal to vaporize. Thus, while the Applicants do not specifically recite temperatures of vapor deposition, those of ordinary skill in the art know that high temperatures are inherently present and the polymer layer is exposed to those high temperatures. Thus, by virtue of the Applicants’ use of the language “vapor-deposited metal layer”, such language inherently involves the higher temperatures nowhere contemplated by Ristey.

The Applicants also respectfully submit that the Applicants’ use of “vapor-deposited” is not process language *per se*, but really is an adjective applied to the metal layer. The characteristics of the metal layer, by virtue of the fact that it is vapor-deposited, are inherently different than the characteristics of a metal layer that is applied by some other method. Thus, the Applicants’ use of a “vapor-deposited metal layer” is not intended to apply process limitations to the claim, but to apply actual descriptors to the metal layer itself. That metal layer has definite physical characteristics brought about by virtue of the fact that it was vapor-deposited, as opposed to applied to the polymer layer by some other means such as a metal foil thermally/pressure bonded thereto.

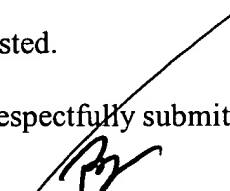
The high temperatures associated with the vapor deposition would be very detrimental to the films of Ristey since they are heat-shrinkable films. Application of vapor-deposited metal to such Ristey films would, no doubt, cause them to shrink to a degree that would result in cracking of the metal layer, thereby destroying the moisture and oxygen barrier characteristics of the layer. This

would, of course, render the resulting product essentially useless for its intended purpose.

By way of summary, the Applicants respectfully submit that one of ordinary skill in the art would not take the teachings of Nagai and apply them to the films of Ristey. Moreover, even if one of ordinary skill in the art were to apply the teachings of Nagai to Ristey, the resulting laminate film would include a shrinkable film, which is not what the Applicants' invention is. The Applicants' invention involves non-shrinkable polyolefin polymer. The Applicants respectfully request withdrawal of the rejection based on the combination of Nagai with Ristey.

In light of the foregoing, the Applicants respectfully submit that the entire Application is now in condition for allowance, which is respectfully requested.

Respectfully submitted,



T. Daniel Christenbury  
Reg. No. 31,750

TDC:lh  
(215) 656-3381